

109TH CONGRESS
1ST SESSION

H. R. 1912

To suspend certain nonessential visas, in order to provide temporary workload relief critical to the successful reorganization of the immigration and naturalization functions of the Department of Homeland Security, to ensure that the screening and monitoring of arriving immigrants and nonimmigrants, and the deterrence of entry and settlement by illegal or unauthorized aliens, is sufficient to maintain the integrity of the sovereign borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2005

Mr. GRAVES introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To suspend certain nonessential visas, in order to provide temporary workload relief critical to the successful reorganization of the immigration and naturalization functions of the Department of Homeland Security, to ensure that the screening and monitoring of arriving immigrants and nonimmigrants, and the deterrence of entry and settlement by illegal or unauthorized aliens, is sufficient to maintain the integrity of the sovereign borders of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Emergency Immigration Workload Reduction and Home-
 4 land Security Enhancement Act of 2005”.

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Severability.
- Sec. 3. Findings.
- Sec. 4. Temporary suspension of visa waiver program.
- Sec. 5. Temporary suspension of adjustment of status.
- Sec. 6. Temporary suspension of renewals of temporary protected status.
- Sec. 7. Temporary suspension of certain immigrant visa programs.
- Sec. 8. Restriction of nonimmigrant visas for nationals of countries denying or
 delaying acceptance of aliens.
- Sec. 9. Waivers of temporary suspensions.
- Sec. 10. Termination of temporary suspensions.
- Sec. 11. Suspension of nonimmigrant visas.
- Sec. 12. Temporary funding for detention and removal assistance provided by
 State and local law enforcement agencies.
- Sec. 13. Effective date.

7 **SEC. 2. SEVERABILITY.**

8 If any provision of this Act, or the application of such
 9 a provision to any person or circumstance, is held to be
 10 unconstitutional, the remainder of the Act, and the appli-
 11 cation of this Act to any other person or circumstance,
 12 shall not be affected by such holding.

13 **SEC. 3. FINDINGS.**

14 The Congress finds as follows:

15 (1) The effective establishment and organiza-
 16 tion of the Directorate of Border and Transpor-
 17 tation Security of the Department of Homeland Se-
 18 curity is imperative if the Directorate is to carry out

1 the immigration enforcement responsibilities dele-
2 gated to it by the Congress in the manner expected
3 by the American people.

4 (2) The effective implementation of these duties
5 will not be achieved without an unacceptable com-
6 promise to the security interests of the United
7 States unless certain immigration programs are tem-
8 porarily suspended, and other material assistance is
9 provided to law enforcement agencies and other enti-
10 ties that support the immigration enforcement func-
11 tions of the Directorate, until such time as the Sec-
12 retary of Homeland Security can make the certifi-
13 cations to Congress required in section 10.

14 (3) Such certifications, taken together, will es-
15 tablish the effective operational transfer of immigra-
16 tion enforcement functions to the new Directorate.

17 **SEC. 4. TEMPORARY SUSPENSION OF VISA WAIVER PRO-**
18 **GRAM.**

19 The admission of aliens to the United States under
20 section 217 of the Immigration and Nationality Act (8
21 U.S.C. 1187) is suspended.

22 **SEC. 5. TEMPORARY SUSPENSION OF ADJUSTMENT OF STA-**
23 **TUS.**

24 (a) IN GENERAL.—The authority of the Secretary of
25 Homeland Security to adjust the status of any alien to

1 that of an alien lawfully admitted for permanent residence
2 under section 240A of the Immigration and Nationality
3 Act (8 U.S.C. 1229b) or section 245 of such Act (8 U.S.C.
4 1187), is suspended.

5 (b) EFFECT ON APPLICATIONS.—The suspension de-
6 scribed in subsection (a) shall include the suspension of
7 acceptance for filing of applications for the adjustments
8 of status described in such subsection.

9 **SEC. 6. TEMPORARY SUSPENSION OF RENEWALS OF TEM-**
10 **PORARY PROTECTED STATUS.**

11 The authority of the Secretary of Homeland Security
12 to extend any designation made under subparagraph (B)
13 or (C) of section 244(b)(1) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1254(b)(1)) is suspended.

15 **SEC. 7. TEMPORARY SUSPENSION OF CERTAIN IMMIGRANT**
16 **VISA PROGRAMS.**

17 (a) BROTHERS AND SISTERS OF CITIZENS.—The al-
18 location of family-sponsored immigrant visas to alien
19 brothers and sisters of citizens under section 203(a)(4) of
20 the Immigration and Nationality Act (8 U.S.C.
21 1153(a)(4)), and the admission of such aliens to the
22 United States as immigrants, is suspended.

23 (b) SONS AND DAUGHTERS OF CITIZENS.—The allo-
24 cation of family-sponsored immigrant visas to alien sons
25 and daughters of citizens under paragraph (1) or (3) of

1 section 203(a) of the Immigration and Nationality Act (8
2 U.S.C. 1153(a)), and the admission of such aliens to the
3 United States as immigrants, is suspended.

4 (c) UNMARRIED SONS AND DAUGHTERS OF PERMA-
5 NENT RESIDENT ALIENS.—

6 (1) IN GENERAL.—The allocation of family-
7 sponsored immigrant visas to aliens who are the un-
8 married sons and daughters (but are not the chil-
9 dren) of an alien lawfully admitted for permanent
10 residence under section 203(a)(2)(B) of the Immi-
11 gration and Nationality Act (8 U.S.C.
12 1153(a)(2)(B)), and the admission of such aliens to
13 the United States as immigrants, is suspended.

14 (2) CHILDREN.—The allocation of family-spon-
15 sored immigrant visas to aliens who are the children
16 of an alien lawfully admitted for permanent resi-
17 dence under section 203(a)(2)(A) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1153(a)(2)(A)),
19 and the admission of such aliens to the United
20 States as immigrants, is suspended, except that this
21 paragraph shall not apply to dependent children who
22 are under 18 years of age at the time an immigrant
23 visa becomes available to the child.

24 (d) DIVERSITY IMMIGRANTS.—The allocation of im-
25 migrant visas to aliens under section 203(c) of the Immi-

1 gration and Nationality Act (8 U.S.C. 1153(c)), and the
 2 admission of such aliens to the United States as immi-
 3 grants, is suspended.

4 (e) EFFECT ON CLASSIFICATION PETITIONS.—The
 5 suspensions of immigrant visa allocations described in this
 6 section shall include the suspension of acceptance for filing
 7 of petitions for classification under section 204 of the Im-
 8 migration and Nationality Act (8 U.S.C. 1154) with re-
 9 spect to the affected immigrant visa categories.

10 **SEC. 8. RESTRICTION OF NONIMMIGRANT VISAS FOR NA-**
 11 **TIONALS OF COUNTRIES DENYING OR DELAY-**
 12 **ING ACCEPTANCE OF ALIENS.**

13 (a) PUBLIC LISTING OF ALIENS WITH NO SIGNIFI-
 14 CANT LIKELIHOOD OF REMOVAL.—

15 (1) IN GENERAL.—The Secretary of Homeland
 16 Security shall establish and maintain a public listing
 17 of every alien who is subject to a final order of re-
 18 moval and with respect to whom the Secretary or
 19 any Federal court has determined that there is no
 20 significant likelihood of removal in the reasonably
 21 foreseeable future due to the refusal, or unreason-
 22 able delay, of all countries designated by the alien or
 23 under this section to receive the alien.

24 (2) DISCONTINUATION OF VISAS.—In the case
 25 of any foreign state for which 24 or more of the citi-

1 zens, subjects, or nationals of such state appear on
2 the public listing described in paragraph (1), such
3 foreign state shall be deemed to have denied or un-
4 reasonably delayed the acceptance of such aliens,
5 and the Secretary of Homeland Security shall make
6 the notification to the Secretary of State prescribed
7 in section 243(d) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1253(d)). Consular officers in
9 such foreign state shall accordingly discontinue the
10 issuance of nonimmigrant visas to citizens, subjects,
11 or nationals of the state.

12 (b) SUNSET.—Subsection (a) shall sunset in accord-
13 ance with section 10.

14 **SEC. 9. WAIVERS OF TEMPORARY SUSPENSIONS.**

15 (a) IN GENERAL.—The Secretary of Homeland Secu-
16 rity may, in the Secretary’s discretion—

17 (1) waive on an individual case-by-case basis
18 sections 5, 7, and 8; or

19 (2) waive, with the concurrence for the Sec-
20 retary of State, section 4 for designated classes of
21 applicants, if such applicants are not inadmissible
22 under section 212(a) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1182(a)) or deportable under
24 section 237(a) of such Act (8 U.S.C. 1227).

1 (b) DELEGATION.—The Secretary of Homeland Se-
2 curity may, in the discretion of the Secretary, delegate to
3 the Secretary of State, for designated classes of appli-
4 cants, the waiver authority of subsection (a)(1) with re-
5 spect to sections 7 and 8.

6 **SEC. 10. TERMINATION OF TEMPORARY SUSPENSIONS.**

7 Sections 4 through 9 shall cease to be effective one
8 week after the certification by the Secretary of Homeland
9 Security to the Congress that the following conditions are
10 satisfied:

11 (1) The integrated entry and exit data system
12 required by the Immigration and Naturalization
13 Service Data Management Improvement Act of 2000
14 (Public Law 106–215), including the requirements
15 added by section 302(a) of the Enhanced Border Se-
16 curity and Visa Entry Reform Act of 2002 (Public
17 Law 107–173), is fully operational at all ports of
18 entry.

19 (2) The system of machine-readable tamper-re-
20 sistant visas and other travel and entry documents
21 required by section 302(b) of the Enhanced Border
22 Security and Visa Entry Reform Act of 2002 (Pub-
23 lic Law 107–173), as well as the technology stand-
24 ard for visa waiver program participants required by
25 section 302(c) of such Act, are fully operational at

1 all ports of entry and, where applicable, at consular
2 posts abroad.

3 (3) The Department of Homeland Security has
4 the operational capability to take into custody and
5 remove from the United States any alien described
6 in section 237(a) of the Immigration and Nationality
7 Act (8 U.S.C. 1227(a)) who has been brought to the
8 attention of the Service by a State or local law en-
9 forcement agency.

10 (4) Adequate Federal funds have been appro-
11 priated and are available to reimburse all verified
12 claims described in section 12.

13 (5) The data system for the registration of
14 aliens under chapter 7 of title II of the Immigration
15 and Nationality Act (8 U.S.C. 261 et seq.) is fully
16 operational and—

17 (A) is fully compliant with the data system
18 integration and interoperability standards en-
19 acted in section 202(a) of the Enhanced Border
20 Security and Visa Entry Reform Act of 2002
21 (Public Law 107–173);

22 (B) ensures the entry of all registrations
23 made in accordance with section 221(b) of the
24 Immigration and Nationality Act (8 U.S.C.

1 1201(b)) into the registration system at the
2 time at the time of the relevant visa application;

3 (C) ensures that all other registrations
4 made under procedures required by section 264
5 of such Act (8 U.S.C. 1304) are entered into
6 the data system within 72 hours of submission
7 by the alien of an approved form of registra-
8 tion; and

9 (D) ensures that all notices of change of
10 address required by section 265 of such Act (8
11 U.S.C. 1305) are entered in the data system
12 within 5 working days of submission by the
13 alien of an approved change of address form.

14 (6) A program for the random audit of the
15 backlog of applications for changes in immigration
16 status by aliens present in the United States exist-
17 ing on the effective date of this Act has been fully
18 implemented by the Department of Homeland Secu-
19 rity.

20 (7) The program described in paragraph (6) re-
21 liably indicates that the incidence of fraud or false
22 statements is no more than 3 percent of all approved
23 applications.

24 (8) The foreign student monitoring system de-
25 scribed in section 641 of the Illegal Immigration Re-

1 form and Immigrant Responsibility Act (8 U.S.C.
2 1372), as amended and expanded by sections 501
3 and 502 of the Enhanced Border Security and Visa
4 Entry Reform Act of 2002 (Public Law 107–173),
5 is fully operational, and no educational institution
6 certified to receive nonimmigrant students under
7 subparagraph (F), (M), or (J) of section 101(a)(15)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1101(a)(15)) registers or admits aliens present in
10 the United States in violation of law.

11 (9) The number of aliens removed from the
12 United States, during each of 4 months preceding
13 the month in which the certification under this sec-
14 tion is executed, was at least 25 percent higher than
15 in the comparable months of the previous year.

16 (10) All reports and plans, and all operational
17 transfers of functions, required under title IV of the
18 Homeland Security Act of 2002 (6 U.S.C. 201 et
19 seq.) have been successfully performed and imple-
20 mented to the extent required by law as of the cer-
21 tification date.

22 (11) The elimination of the backlog of immigra-
23 tion benefit applications required by section 458 of
24 the Homeland Security Act of 2002 (Public Law
25 107–296; 116 Stat. 2201) has been completed.

1 (12) The annual report required by section
2 205(b) of the American Competitiveness in the
3 Twenty-first Century Act of 2000 (8 U.S.C.
4 1574(b)), for the fiscal year preceding the date of
5 the certification, has been submitted to the Con-
6 gress.

7 (13) Process changes described in section
8 205(b)(2)(C)(vi) of the American Competitiveness in
9 the Twenty-first Century Act of 2000 (8 U.S.C.
10 1574(b)(2)(C)(vi)) have been implemented and are
11 substantially operational.

12 **SEC. 11. SUSPENSION OF NONIMMIGRANT VISAS.**

13 (a) IN GENERAL.—The authority of the Secretary of
14 State to issue nonimmigrant visas is suspended. The au-
15 thority of the Secretary of Homeland Security to admit
16 nonimmigrant aliens into the United States is suspended.

17 (b) EFFECT ON APPLICATIONS.—The suspensions
18 described in subsection (a) shall include the suspension of
19 acceptance for filing of applications for nonimmigrant
20 visas and applications for admission as a nonimmigrant.

21 (c) WAIVERS AUTHORIZED.—The Secretary of
22 Homeland Security may, in the Secretary's discretion,
23 waive the application of subsection (a) in the case of any
24 alien or class of aliens if the following conditions are satis-
25 fied:

1 (1) Section 203(c) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1153(c), and any other provi-
3 sion of law authorizing the issuance of diversity im-
4 migrant visas, is repealed.

5 (2) Personal interviews are mandatory for ad-
6 mission of aliens to the United States under section
7 217 of the Immigration and Nationality Act (8
8 U.S.C. 1187).

9 (3) The Secretary, with the Secretary of State,
10 verifies that each alien admitted on the basis of a
11 nonimmigrant visa has had a personal interview with
12 a consular officer prior to the issuance of the visa.

13 (d) CONSTRUCTION.—During any period in which a
14 waiver granted under subsection (c) applies to aliens
15 barred from receipt of nonimmigrant visas under section
16 7(a)(2), the bar shall supersede the waiver.

17 **SEC. 12. TEMPORARY FUNDING FOR DETENTION AND RE-**
18 **MOVAL ASSISTANCE PROVIDED BY STATE**
19 **AND LOCAL LAW ENFORCEMENT AGENCIES.**

20 The Secretary of Homeland Security shall reimburse
21 verifiable claims submitted by a law enforcement agency
22 of a State, or any political subdivision of a State, that
23 were lawfully incurred for the emergency medical care,
24 housing, and care in a secure facility, and the transpor-
25 tation into Federal custody at a location designated by the

1 Secretary, of any alien detained as inadmissible under sec-
2 tion 212(a) of the Immigration and Nationality Act (8
3 U.S.C. 1182(a)) or deportable under section 237(a) of
4 such Act (8 U.S.C. 1227(a)), if—

5 (1) transfer to Federal custody has occurred;

6 (2)(A) a determination is subsequently made
7 under section 240(c)(1) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1229a(c)(1)) that such alien
9 is removable; or

10 (B) a determination is made that the alien has
11 permanently departed the United States;

12 (3) reimbursement for all costs excepting trans-
13 portation costs is made according to a per diem rate
14 established by the Secretary; and

15 (4) the first day of such detention is not later
16 than the date on which the certification described in
17 section 9 is made.

18 **SEC. 13. EFFECTIVE DATE.**

19 This Act shall take effect in each local time zone upon
20 the commencement in such zone of the first Sunday that
21 occurs two weeks after the date of the enactment of this
22 Act.

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